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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,157	03/01/2004	David T. Horoschak	BCS03163	1004

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Motorola, Inc.
Law Department
1303 East Algonquin Road
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EXAMINER	
DEAN, RAYMOND S	

ART UNIT	PAPER NUMBER
2618	

NOTIFICATION DATE	DELIVERY MODE
11/04/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docketing.US@motorola.com

Office Action Summary	Application No.	Applicant(s)	
	10/790,157	HOROSCHAK ET AL.	
	Examiner	Art Unit	
	RAYMOND S. DEAN	2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 August 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4,6-9,11 and 13-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,6-9,11 and 13-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *01 March 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *08/08*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 20, 2008 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1 and 11 have been considered but are moot in view of the new ground(s) of rejection.

Additionally, Examiner respectfully disagrees with Applicants' assertion that the Miyazaki reference "fails to describe the purpose of frequency detector 5" and that "the Examiner is inventing a purpose of frequency detector 5 that is not supported in the text of Miyazaki". Miyazaki clearly shows in Figure 1 in combination with Col. 2 lines 48 - 50 that the frequency detector is used in a receiver that automatically selects the best wave in consideration of characteristic wave conditions of short waves.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claim(s) 11 is/are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing (Reference the May 15, 2008 memorandum issued by Deputy Commissioner for Patent Examining Policy, John J. Love, titled "Clarification of 'Processes' under 35 U.S.C. 101"). The instant claims neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process. All claims that depend directly or indirectly from Claim 11 are rejected for the same reasons set forth above.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1 – 4, 6 – 7, 9, 11, 13 – 17, 20 – 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dangberg et al. (US 2002/0173866) in view of Shirato (US

7,280,296) in view of Goodman et al. (US 2003/0185107) and in further view Berstis (US 6,944,430)

Regarding Claim 1, Dangberg teaches a system for time shifting radio broadcast signals, said system comprising: an audio tuner, said audio tuner tuning frequencies for reception of said radio broadcast signals (Figure 1, Section 0014, receiver (22)); and a selection recognition engine coupled to said audio tuner, said selection recognition engine monitoring said radio broadcast signals and selectively recording portions of a radio broadcast signal (Section 0020).

Dangberg does not teach said selection recognition engine monitoring said radio broadcast signals for audible pre-defined recording triggers and selectively recording portions of a radio broadcast signal, in response to said recording triggers, and an audio selector that manages an audio selector that manages a) an automatic interruption of a current digital audio stream based on a detected, user defined type of content within the recorded portions of the radio broadcast signal, b) playback of said recorded portions of said radio broadcast signal after the interruption of the current digital audio stream, and c) resumption of said digital audio stream previously interrupted after the playback of said recorded portions of said radio broadcast.

Shirato teaches teach said selection recognition engine monitoring said radio broadcast signals for pre-defined recording triggers and selectively recording portions of a radio broadcast signal, in response to said recording triggers (Col. 5 lines 4 – 7, lines 36 – 67, there is a check to see if the broadcast contents, which are the contents embedded in the broadcast signal, such as artist name, recorded channel, and/or total

time interval of the song match with the label message (LM), if there is a match then recording will take place).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Dangberg with the above recording feature of Shirato for the purpose of providing an alternative means for recording audio thus enabling an efficient recording the desired broadcast contents as taught by Shirato.

Dangberg in view of Shirato does not teach audible pre-defined recording triggers.

Goodman, which also teaches in the field of recording audio broadcasts, teaches audible pre-defined recording triggers (Section 0058 lines 21 - 23).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use audible triggers of Goodman in the system of Dangberg in view of Shirato as an alternative means of achieving the same predictable result, which is recording audio broadcasts.

Berstis, which also teaches in the field of recording audio broadcasts, teaches an audio selector that manages an audio selector that manages a) an automatic interruption of a current digital audio stream based on a detected, user defined type of content within the recorded portions of the radio broadcast signal (Cols. 18 lines 22 – 25, 47 – 59, 19 lines 29 – 35), b) playback of said recorded portions of said radio broadcast signal after the interruption of the current digital audio stream (Cols. 18 lines 22 – 25, 47 – 59, 19 lines 29 – 35), and c) resumption of said digital audio stream

previously interrupted after the playback of said recorded portions of said radio broadcast (Cols. 18 lines 22 – 25, 47 – 59, 19 lines 29 – 35).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Dangberg in view of Shirato and in further view of Goodman with the above features of Berstis for the purpose of providing a user with the ability to adjust user specific preferences for recording and playback of broadcast events as taught by Berstis.

Regarding Claim 11, Dangberg teaches a method for time shifting radio broadcast signals, said method comprising: monitoring radio broadcast signals (Section 0020, when the clock time coincides with the time code in the broadcast signal the broadcast information will be recorded); recording at least a portion of a radio broadcast signal (Sections 0014, 0020, the receiver will be tuned to a particular frequency such that the broadcast information can be recorded); and playing back the recorded portion of said radio broadcast signal (Sections 0019, 0020).

Dangberg does not teach monitoring radio broadcast signals for a pre-defined audible recording trigger; recording at least a portion of a radio broadcast signal upon an occurrence of said recording trigger; stopping a current digital audio stream playback in response to detection of a type of content of said recorded portion of said radio broadcast signal; playing back the recorded portion of said radio broadcast signal after the current digital audio stream has been stopped; and resuming playback of the current digital audio stream after the playback of the recorded portion of the radio broadcast signal

Shirato teaches teach monitoring radio broadcast signals for a pre-defined recording trigger; recording at least a portion of a radio broadcast signal upon an occurrence of said recording trigger (Col. 5 lines 4 – 7, lines 36 – 67, there is a check to see if the broadcast contents, which are the contents embedded in the broadcast signal, such as artist name and total time interval of the song match with the label message (LM), if there is a match then recording will take place).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Dangberg with the above recording feature of Shirato for the purpose of providing an alternative means for recording audio thus enabling an efficient recording the desired broadcast contents as taught by Shirato.

Dangberg in view of Shirato does not teach an audible recording trigger.

Goodman, which also teaches in the field of recording audio broadcasts, teaches audible pre-defined recording triggers (Section 0058 lines 21 - 23).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use audible triggers of Goodman in the system of Dangberg in view of Shirato as an alternative means of achieving the same predictable result, which is recording audio broadcasts.

Berstis, which also teaches in the field of recording audio broadcasts, teaches stopping a current digital audio stream playback in response to detection of a type of content of said recorded portion of said radio broadcast signal (Cols. 18 lines 22 – 25, 47 – 59, 19 lines 29 – 35); playing back the recorded portion of said radio broadcast signal after the current digital audio stream has been stopped (Cols. 18 lines 22 – 25,

47 – 59, 19 lines 29 – 35); and resuming playback of the current digital audio stream after the playback of the recorded portion of the radio broadcast signal (Cols. 18 lines 22 – 25, 47 – 59, 19 lines 29 – 35).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Dangberg in view of Shirato and in further view of Goodman with the above features of Berstis for the purpose of providing a user with the ability to adjust user specific preferences for recording and playback of broadcast events as taught by Berstis.

Regarding Claim 2, Dangberg in view of Shirato in view of Goodman and in further view of Berstis teaches all of the claimed limitations recited in Claim 1. Dangberg further teaches an audio capture memory coupled to said selection recognition engine, said audio capture memory storing recorded portions of said radio broadcast signal (Section 0014).

Regarding Claim 3, Dangberg in view of Shirato in view of Goodman and in further view of Berstis teaches all of the claimed limitations recited in Claim 2. Dangberg teaches wherein said audio capture memory comprises at least one of random access memory, flash memory, a hard drive, optical drive, and optical-magnetic drive (Section 0014).

Regarding Claim 4, Dangberg in view of Shirato in view of Goodman and in further view of Berstis teaches all of the claimed limitations recited in Claim 1. Dangberg further teaches a digital audio player, said digital audio player providing playback of a digital audio stream (Figure 1, Sections 0008 - 0010, 0014, the digital

audio appliance (10) can be an MP3 player).

Regarding Claim 6, Dangberg in view of Shirato in view of Goodman and in further view of Berstis teaches all of the claimed limitations recited in Claim 4. Dangberg further teaches wherein said audio selector comprises a user interface (Section 0017, input means). Dangberg further teaches wherein said audio selector comprises random access memory (Section 0017, microcontrollers and microprocessors comprise memory such as random access memory).

Regarding Claim 7, Dangberg in view of Shirato in view of Goodman and in further view of Berstis teaches all of the claimed limitations recited in Claim 1. Dangberg further teaches wherein said digital audio player comprises at least one of a Redbook audio player, MP3 audio player, MPEP4 audio player, and AC-3 audio player (Sections 0008 -0010).

Regarding Claim 9, Dangberg in view of Shirato and in view of Goodman and in further view of Berstis teaches all of the claimed limitations recited in Claim 1. Shirato further teaches a frequency detection unit (Col. 5 lines 4 – 7, lines 36 – 67, there is a check to see if the broadcast contents, which are the contents embedded in the broadcast signal, such as artist name, recorded channel, and/or total time interval of the song match with the label message (LM), if there is a match then recording will take place, the recorded channel is at a particular frequency thus the detection of a record channel comprises the detection of said particular frequency).

Regarding Claim 13, Dangberg in view of Shirato in view of Goodman and in further view of Berstis teaches all of the claimed limitations recited in Claim 11.

Goodman further teaches wherein the record trigger comprises at least one of voice recognition, and a signaling tone (Section 0058 lines 21 - 23).

Regarding Claim 14, Dangberg in view of Shirato in view of Goodman and in further view of Berstis teaches all of the claimed limitations recited in Claim 11. Dangberg further teaches where said recording comprising digitally compressing said recorded portion of said radio broadcast signal in at least one of MP3 audio, MPEP4 audio, and AC-3 audio format (Sections 0008 -0010).

Regarding Claim 15, Dangberg in view of Shirato in view of Goodman and in further view of Berstis teaches all of the claimed limitations recited in Claim 11. Dangberg further teaches stopping said recording of said radio broadcast signal upon the occurrence of a stop trigger (Section 0020, the recording of the news will stop once the news broadcast is complete).

Regarding Claim 16, Dangberg in view of Shirato in view of Goodman and in further view of Berstis teaches all of the claimed limitations recited in Claim 15. Dangberg further teaches at least one of a fixed time after said start of said step of recording, a pre-defined recording stop time, voice recognition, change in an orators voice, a standardized tone, and standardized event (Section 0020, the recording of the news will stop once the news broadcast is complete, said stopping will occur at a fixed time after the start of the recording of the news).

Regarding Claim 17, Dangberg in view of Shirato in view of Goodman and in further view of Berstis teaches all of the claimed limitations recited in Claim 12. Dangberg further teaches the step of notifying when a recorded portion of a radio

broadcast signal has been recorded but not yet played back (Sections 0008 - 0010, 0020, See Response To Arguments above).

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dangberg et al. (US 2002/0173866) in view of Shirato (US 7,280,296) in view of Goodman et al. (US 2003/0185107) in view of Berstis (US 6,944,430), as applied to Claim 1 above, and further in view of Hagg (US 2003/0035072).

Regarding Claim 8, Dangberg in view of Shirato in view of Goodman and in further view of Berstis teaches all of the claimed limitations recited in Claim 1. Dangberg in view of Shirato in view of Goodman and in further view of Berstis does not teach a speech recognition unit.

Hagg teaches a speech recognition unit (Section 0038, the processor can differentiate between speech and music thus said processor comprises a speech recognition unit).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Dangberg in view of Shirato in view of Goodman and in further view of Berstis with the speech recognition unit of Hagg for the purpose of determining the segmentation of an incoming audio stream thus determining the content of the audio stream as taught by Hagg.

8. Claims 18 – 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dangberg et al. (US 2002/0173866) in view of Shirato (US 7,280,296) in view of

Goodman et al. (US 2003/0185107) in view of Berstis (US 6,944,430), as applied to Claim 17 above, and further in view of Engstrom (US 2004/0171377).

Regarding Claims 18, 19 Dangberg in view of Shirato in view of Goodman and in further view of Berstis teaches all of the claimed limitations recited in Claim 17. Dangberg in view of Shirato in view of Goodman and in further view of Berstis does not teach an audible/visual indication.

Engstrom, which also teaches notification that a broadcast has been recorded, teaches an audible/visual indication when a broadcast signal has been recorded but not yet played back (Sections 0062 lines 4 – 8, 0066 lines 8 – 10, the notifications of Engstrom can be visual or audible).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the audible/visual indication of Engstrom in the system of Dangberg in view of Shirato in view of Goodman and in further view of Berstis as an alternative means for achieving the same predictable result, which is notifying the user that a broadcast segment as been recorded.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Logan et al. (US 2003/0163823).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAYMOND S. DEAN whose telephone number is (571)272-7877. The examiner can normally be reached on Monday-Friday 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward F. Urban can be reached on 571-272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Raymond S Dean/
Primary Examiner, Art Unit 2618

Raymond S. Dean
October 28, 2008